



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826.012	04/05/2001	Kenichi Chujo	0303-0444P	3847

2292 7590 09/23/2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/826,012	Applicant(s) CHUJO ET AL.	
	Examiner Victor S Chang	Art Unit 1771	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached NOTE.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1 and 2.

Claim(s) withdrawn from consideration: 3 and 4.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

**DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-**

1700

Daniel Zirker

NOTE

1. The After Final Amendment is not entered. It is noted that the newly amended claim 1 recites in part "evacuating gas from said cavity through a plurality of gas-aspirating passages provided on a side of said cavity adjacent to said resin cover" and "said molded resin laminate comprises a bent portion and cells existing in said intermediate layer in a vicinity of said portion are elongated". Such amendments, particularly the later part of the amendment clearly raise new issues that would require further consideration and/or search.

2. With respect to Applicants' argument that "a person skilled in the art reading EP '447 in its entirety would not have been motivated to use the method of Comparative Example 1" (Remarks, page 7, bottom paragraph), the Examiner reiterates (see Paper No. 7, page 3, top paragraph) that EP '447 expressly teaches that the results summarized in Table 1 shows that, under suitable molding pressure, the composite is still of practical use (pg. 8, Ins. 7-36), Applicant's argument to the contrary notwithstanding. Further, it should be noted that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use. See MPEP § 2123. Further, a reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. The question whether a

Application/Control Number: 09/826,012

Page 3

Art Unit: 1771

reference "teaches away" from the invention is inapplicable to an anticipation analysis.

See MPEP § 2131.05.